

Case 7:12-cv-00548-JDW Document 31 Filed 04/06/15 Page 1 of 12  
In The United States District Court  
For The Eastern District of Pennsylvania

Wessie Sims pro-se  
V.  
City of Philadelphia, et al.  
Defendants

Civ. Action  
No. 12-5486  
Date 4-1-15

Motion for Judgment  
as a Matter of Law  
Rule 50(a)

plaintiff Respectfully request this Honorable  
Court Grant motion for Judgment and allow  
plaintiff to present evidence and ultimate facts.  
1. She is entitle to the Judgment where a civil remedy  
is afforded by Law in the Civil Courts in so  
far as her private and individual Rights have  
been injured. The means employed to enforce  
her Rights, and redress her injury, the Rights  
Given to her by Law.

Memorandum of Law:

2. In Haines v. Kerner et al. per Curiam No. 70-5025.  
United States Court of Appeals for the 7th Circuit  
argued Dec 6, (1971) Decided Jan 13, (1972)
- (a) Held the pro-se Complaint should not  
have been dismissed Without affording

the opportunity to present evidence on his claims 427 F.2d. 71, and:

The court conclude that the pro-se petitioner is entitled to an opportunity to offer proof.

United States of America  
v.

Cebalogo 27 F. Supp. 921,  
no. 8497. Ed. N. Y. April 27, (1939).

The Court held: it allow the opening of the case for the reception of the evidence which will be hereinafter described, and any evidence in opposition thereto which defendant may desire to offer. where opinion had been rendered, but no findings of fact and conclusions of law have been made or filed, allow case to be reopened for receipt of evidence.

Federal Rules of Civil procedure  
for District Courts.

Rule 59 28 U.S.C.A. following  
section 723(c).

United States V. Parisi  
No. 8500 District Court  
E.D. New York April 27, (1939),  
Courts 352(1) 353.

1. The Court Held: where evidence offered on motion for new trial would not change Courts decision:
2. The motion was denied, the Case was allowed to be reopened for receipt of the Evidence and of evidence in opposition thereto, where:
3. No findings of fact and Conclusions of Law or Judgment have been made or Filed.

Federal Rules of Civil procedure  
For District Courts.

Rule 59 28 U.S.C. A. Following  
section 723(c).

(C)

1. Fed. R. Civ. P. 58(c)(2)(B). *United Auto*

259, 501, F. 3d. at 287, 3d. Cir. 2007. Cited by the Court.

2. again, The Court cites no separate document was necessary because the Order itself satisfied Rule 58. Citing *United Auto*. 3d. Cir. 2007.

3. Where the Court cites Fed. R. Civ. P. 58(c):

Impact of 2007 Restyling Amendments.

4. Current Rule 58(c) now contains the timing principles for entered judgments which, formerly was found in old Rule 58(b). The displaced former content of Rule 58(c) has been repositioned to Rule 58(e).

Judgment Rule 58 stating what qualifies as a separate document.

except for the five exempted instances set out in the rules text:

Every judgment as well as partial dispositions under Rule 54(b) must be labeled judgment, and must be set forth on a separate document.

Holding neither:



2. Opinion:

3. Nor Marginal entry orders, Nor:

4. Minute orders, Nor:

5. Electronic docket notations  
satisfy this requirement.

thus to qualify as a  
separate document:

The Judgment must:

1. Be a self contained, separate document:

2. State the relief granted.

3. Omit the reasoning used by the District  
Court to dispose of pending motions  
which should instead be contained  
in the Court's opinion.

The Court order states no separate document  
was necessary because the order itself  
satisfied Rule 58.

Noting a Qualifying Order will fail this  
separateness requirement, because a Court  
order does not qualify as a Judgment  
under Rule 58:

and labeling it that way will not harm it.

See: Kanematsu - Gesko, Ltd. v. M/T  
messiniaki Pigli.

805, F. 2d, 47, 48-49 2d Cir. (1986).

per curiam.

Holding: Order does not qualify as Judgment.

See rule 58 advisory Committee.

Notes to 2002 Amendments:

Rule 58(a) Separate Document:

Core Concept: To avoid uncertainty about  
when the clock for taking an appeal begins  
to tick, the District Courts are required to  
set forth judgments and amended judgments  
in a separate document.

When a separate document  
is not required:

A. A separate document is not required  
for an Order disposing of a rule 50(b) and  
a renewed motion for judgment after trial,  
and a rule 52(b) motion to amend or  
make additional findings of fact.

The current separate document Rule  
remains the same.

The old separate document Rule 58  
prior to 2002 Amendment:

A. a Judgment was required to be set forth  
in writing in a separate document,  
and entered on the Docket, and until each  
requirement was met, the Judgment was  
not deemed to have been entered and  
the time for filing an appeal would  
not begin to Run.

Rule 58 has provided that a Judgment is  
effective only when set forth on a  
separate document and entered  
as provided in rule 79(a).

Required by rule 58(a)(1) a rule 60 begin  
to run after expiration of 150 days  
from entry of the Judgment in the  
Civil Docket as required by rule 79(a).

Rule 58(a) preserves the Core of the  
separate document requirement  
both for the initial Judgment,  
and any amended Judgment.

Contents of Judgment document must clearly  
state which parties are entitled to what relief.

The exceptions to rule 58  
are listed in rule 58(a)(1).

Every Judgment and amended Judgment:

must be set forth on a separate document:

- A. For Judgment under Rule 50(b).
- B. To Amend or make additional Findings of Fact under rule 52(b).
- C. For attorney fees under Rule 54.
- D. For a new trial, or to alter or amend the Judgment under Rule 59 or
- E. For relief under Rule 60.

A separate document is not required  
for an order disposing of a motion.



In the United States District Court  
For the Eastern District of Pennsylvania

Wessie Sims pro-se  
City of Philadelphia et al.  
Defendants

Civ. action  
no: 12-5486  
date-4-1-15

Certificate of service  
The undersigned hereby Certify that a true  
and correct copy of the foregoing Response to  
motion for judgment as a matter of Law  
and memorandum of Law was served by  
first-class United States Mail, postage  
pre-paid on-4-1-15

all Correspondence to  
attorney of Record  
plaintiff's Agent:  
Sharon N. Hawley Esq.  
By E-mail Address.

Name: Craig Shaw Esq.  
Law Department  
City of Philadelphia  
14<sup>th</sup> Floor  
1515 Arch Street  
By Wessie Sims pro-se.

## Conclusion

For all of the foregoing reasons in the  
Interests of Justice plaintiff Respectfully  
request the Motion for Judgment be Granted.

Respectfully Submitted  
Wessie Sims pro se  
4925 W. Stiles Street,  
Philadelphia P.A. 19131  
Date- 4-1-15



An Exelon Company

Emergency and Repairs: 1-800-841-4141. This is the number to call to report power outages, gas leaks or odors, and safety hazards related to PECO equipment. For all other business, call 1-800-494-4000.

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Name: WESSIE L SIMS  
 Account Number: 34642-01217  
 Phone Number: 215-728-1906  
 Service Address: 2103 N WOODSTOCK ST,  
 PHILADELPHIA

### Billing Summary

Bill Date	02/21/2013
Thank you for your payment of \$150.00	
Thank you for your payment of \$100.72	
Charges from previous bill	\$149.26
Late payment charge	\$3.75
<b>Total Other Charges</b>	<b>\$153.01</b>

### Current Period Charges

Electric	\$296.26
<b>Total New Charges</b>	<b>\$296.26</b>
<b>Total Amount Due on 03/15/2013</b>	<b>\$449.27</b>

### General Information

Next scheduled meter reading: **March 19, 2013**  
 PECO, 2301 Market St, Philadelphia, PA 19103-1380. If you have any questions or concerns, please call **1-800-494-4000** before the due date.  
 Si tiene alguna pregunta, favor de llamar al numero **1-800-494-4000** antes de la fecha de vencimiento.

### Customer Self Service - Manage Your Account 24/7

- [www.peco.com/ebill](http://www.peco.com/ebill) - Go paperless: receive and pay your bill
- [www.peco.com/service](http://www.peco.com/service) - Start, stop and transfer your service
- [www.peco.com/SmartIdeas](http://www.peco.com/SmartIdeas) - Save energy and money
- Pay by phone with credit/debit card at **1-877-432-9384** (\$3.50 fee)

Constellation, 100 Constellation Way, Suite 1700P, Baltimore, MD 21202,  
 888-635-0827

### Message Center

New charges contain estimated total state taxes of \$8.22, including \$7.42 for State Gross Receipts Tax.

Thank you for making an arrangement to pay your bill. Should you have any questions regarding this arrangement, please call the number on your bill.

Your estimated electric price to compare is \$0.0869 per kWh.

When paying in person, please bring the entire bill.

(continued on next page)

*\$50 April 11*



David Sims  
4925 W. Stiles St.  
Philadelphia, PA  
19131

RETURN RECEIPT  
REQUESTED

FIRST CLASS



Office of the Clerk U.S.  
United States District Court  
Eastern District of Pennsylvania  
601 Market Street  
Philadelphia, PA  
19106

